

IRONSHORE EUROPE DAC,)
)
 Plaintiff,)
)
 vs.) No. 2:17-cv-431
)
 SCHIFF HARDIN, LLP,)
)
 Defendant.)

The deposition of JONATHAN JUDGE, called by the plaintiff for examination pursuant to notice and pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Amy M. Spee, a certified shorthand reporter within and for the County of Cook and State of Illinois, at 233 South Wacker Drive, Suite 7100, Chicago, Illinois, on the 17th day of October 2017.

Jonathan Judge

<p style="text-align: right;">126</p> <p>1 MR. KRYDER: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A -- it could.</p> <p>4 BY MR. McENTIRE:</p> <p>5 Q And isn't it true that the Court did allow</p> <p>6 that evidence to come into the case?</p> <p>7 A It did.</p> <p>8 Q And even though you had advised the Court</p> <p>9 that you would suffer enormous prejudice, you also</p> <p>10 advised the Court that you would need a several-month</p> <p>11 continuance, correct?</p> <p>12 A Based on our beliefs at that time, yes.</p> <p>13 Q And -- and at no time did you ever disclose</p> <p>14 to Ms. Anderson the Court's order -- first of all,</p> <p>15 you never disclosed to Ms. Anderson your statements</p> <p>16 to the Court that you would suffer enormous prejudice</p> <p>17 if, in fact, the issue was allowed to be introduced</p> <p>18 into the case?</p> <p>19 MR. KRYDER: Objection. Form.</p> <p>20 BY THE WITNESS:</p> <p>21 A Well, I don't recall her -- I don't recall</p> <p>22 affirmatively sending that to her. I don't recall</p> <p>23 her asking to see it. And she refused to look at our</p> <p>24 files when she came, so she would not have,</p> <p>25 therefore, seen it.</p>	<p style="text-align: right;">128</p> <p>1 Court -- let me back up.</p> <p>2 Even though you had told Ms. Anderson</p> <p>3 that it was a sham allegation, you made no effort to</p> <p>4 tell her that the Court was actually going to allow</p> <p>5 the issue into the case?</p> <p>6 A That completely misstates the facts, the</p> <p>7 assumptions.</p> <p>8 Q I'll rephrase it, because I want to make</p> <p>9 sure the record is clear.</p> <p>10 A That's fine.</p> <p>11 Q Even though you told Ms. Anderson that the</p> <p>12 allegation of traumatic brain injury was a sham</p> <p>13 allegation --</p> <p>14 A Mm-hmm.</p> <p>15 Q -- you made no effort to advise her before</p> <p>16 the case went to verdict that the -- that the</p> <p>17 traumatic brain injury claim would be allowed into</p> <p>18 the case?</p> <p>19 A That's correct, because she had not asked</p> <p>20 to be kept advised of pleadings, motions, and files</p> <p>21 and orders, which, in my experience, is what insurers</p> <p>22 ask when they want to be so informed.</p> <p>23 Q And even though you advised the Court that</p> <p>24 Dorel would suffer enormous prejudice if the</p> <p>25 traumatic brain injury claim would come into the</p>
<p style="text-align: right;">127</p> <p>1 BY MR. McENTIRE:</p> <p>2 Q You're referring to the meeting in Chicago?</p> <p>3 A Yes.</p> <p>4 Q Okay. Let's back up and take it in baby</p> <p>5 steps.</p> <p>6 A Okay.</p> <p>7 Q Did you ever send the motion to her that</p> <p>8 stated that you would suffer enormous prejudice if</p> <p>9 the traumatic brain injury issue was allowed to go to</p> <p>10 the jury?</p> <p>11 A We did not. She had not requested to be</p> <p>12 sent the motions.</p> <p>13 Q How did she even know that you had filed</p> <p>14 the --</p> <p>15 A Can I answer?</p> <p>16 Q -- motion?</p> <p>17 Oh, sure.</p> <p>18 A Okay. We did not send her the motion</p> <p>19 because she had not requested that we send her</p> <p>20 motions and court orders that were filed, which, in</p> <p>21 my experience, is what insurers who want to see such</p> <p>22 documents do.</p> <p>23 Q So even though you had told Ms. Anderson</p> <p>24 that you believed it was a sham allegation and that</p> <p>25 you would suffer enormous prejudice, you told the</p>	<p style="text-align: right;">129</p> <p>1 case, you never advised Ms. Anderson that that</p> <p>2 enormous prejudice would be suffered, did you?</p> <p>3 A That's because our assessment changed,</p> <p>4 number one.</p> <p>5 And, number two, she did not ask to be</p> <p>6 aware of these motions and pleadings and orders, so</p> <p>7 it would not have come up.</p> <p>8 Q So -- so the answer is no, you never</p> <p>9 disclosed to her that you ever -- you advised the</p> <p>10 Court that enormous prejudice would be suffered; is</p> <p>11 that correct?</p> <p>12 MR. KRYDER: Objection. Form.</p> <p>13 BY THE WITNESS:</p> <p>14 A Yeah, I don't -- I don't think I can answer</p> <p>15 that question as the way you phrased it. Something</p> <p>16 doesn't sound right.</p> <p>17 BY MR. McENTIRE:</p> <p>18 Q Yeah. Okay. Let's get a question that</p> <p>19 sounds right to you.</p> <p>20 You never advised her that you had</p> <p>21 taken a formal position with the Court that enormous</p> <p>22 prejudice would be suffered if the traumatic brain</p> <p>23 injury claim was allowed to be -- go to the jury,</p> <p>24 correct?</p> <p>25 A That is correct, because she had not asked</p>

Jonathan Judge

<p style="text-align: right;">314</p> <p>1 BY MR. McENTIRE:</p> <p>2 Q Let me hand you what has been marked as</p> <p>3 Exhibit 8 and Exhibit 9. Would you identify those</p> <p>4 documents for me, please.</p> <p>5 MR. PETERS: Could we get a copy, please?</p> <p>6 MR. McENTIRE: Yes, I'm trying to get -- get</p> <p>7 you one.</p> <p>8 MR. PETERS: Okay.</p> <p>9 MR. McENTIRE: Actually, I don't have an extra</p> <p>10 copy of those. I apologize. You can take a look at</p> <p>11 them. They're -- it's right off PACER.</p> <p>12 BY MR. McENTIRE:</p> <p>13 Q Would you identify Exhibits 8 and 9.</p> <p>14 A Well, Exhibit 8 is a document entitled</p> <p>15 "Plaintiffs' Final Exhibit and Witness List," and</p> <p>16 Exhibit 9 is a document entitled "Defendant's Final</p> <p>17 Exhibit and Witness List."</p> <p>18 Q In Exhibit 9, did anybody talk about the</p> <p>19 brain injury? Any of your witnesses?</p> <p>20 MR. KRYDER: Objection to form.</p> <p>21 BY MR. McENTIRE:</p> <p>22 Q Did any expert testify in connection or in</p> <p>23 response to --</p> <p>24 A You know, I'm not seeing a witness list on</p> <p>25 here.</p>	<p style="text-align: right;">316</p> <p>1 Q Yes.</p> <p>2 A Okay.</p> <p>3 No. Witness 48, Dr. Harrell, was the</p> <p>4 witness who we had planned to testify. And we did</p> <p>5 not believe his testimony was required, so we did not</p> <p>6 call him as a witness at trial.</p> <p>7 (Judge Deposition Exhibit No. 19</p> <p>8 was marked for identification.)</p> <p>9 BY MR. McENTIRE:</p> <p>10 Q All right. Let me hand you what has been</p> <p>11 marked as Exhibit 19 and ask you to identify that</p> <p>12 document for me.</p> <p>13 A This is an e-mail exchange between me and</p> <p>14 Mary Faith Green, and the last communication is</p> <p>15 April 6th, 2016.</p> <p>16 Q Okay. This includes an e-mail string from</p> <p>17 Michelle Anderson, correct?</p> <p>18 A Looks like it, yes.</p> <p>19 Q And attached to it is the plaintiffs'</p> <p>20 mediation statement.</p> <p>21 A Not -- not to mine, unless I'm missing</p> <p>22 something.</p> <p>23 Q Keep going. Maybe you're right.</p> <p>24 The e-mail itself talks about the</p> <p>25 plaintiffs' settlement demand of \$7 million,</p>
<p style="text-align: right;">315</p> <p>1 Q I wonder if they're incomplete. Let me</p> <p>2 see. Hold on here.</p> <p>3 Let me mark these as Exhibit 8A and</p> <p>4 9A.</p> <p>5 A Okay.</p> <p>6 Q Maybe this can help us.</p> <p>7 I don't know what these documents are,</p> <p>8 so maybe you can just identify them.</p> <p>9 A Okay.</p> <p>10 (Judge Deposition Exhibit</p> <p>11 Nos. 8A and 9A were marked for</p> <p>12 identification.)</p> <p>13 BY MR. McENTIRE:</p> <p>14 Q They come from Schiff. So here is 8 --</p> <p>15 oh -- 8A and 9A.</p> <p>16 A All right.</p> <p>17 Q What are these documents?</p> <p>18 A All right. So these do not have a file</p> <p>19 stamp on them, but they are -- 8A is entitled</p> <p>20 "Plaintiffs' Trial Witness List," and 9A is</p> <p>21 "Defendant's Trial Witness List."</p> <p>22 Q Okay. Is there any witness on Exhibit 9A</p> <p>23 that actually addressed the brain injury issue?</p> <p>24 A In terms of being actually called at the</p> <p>25 trial?</p>	<p style="text-align: right;">317</p> <p>1 correct --</p> <p>2 A Yes.</p> <p>3 Q -- in the Hinson case, "our fairly low</p> <p>4 valuation."</p> <p>5 What was your valuation of the case?</p> <p>6 A It would have been in the six figures.</p> <p>7 Q Did you actually tell that to Michelle</p> <p>8 Anderson when you talked to her on March 24th, 2016?</p> <p>9 A I don't know if we gave her an exact number</p> <p>10 on the case.</p> <p>11 Q Do you recall whether you gave her any type</p> <p>12 of valuation in terms of numbers?</p> <p>13 A I do not.</p> <p>14 Q "Our fairly low valuation of the case has</p> <p>15 not changed, as it is a transparent attempt, in our</p> <p>16 view, to get Ironshore's attention."</p> <p>17 Why was that calculated, in your</p> <p>18 attempt [sic], to be a transparent attempt to get</p> <p>19 Ironshore's attention?</p> <p>20 A Because in previous cases I have seen</p> <p>21 plaintiffs' counsel send in a demand that is pretty</p> <p>22 much right at the attachment point, and I have seen</p> <p>23 other Texas counsel I have worked with describe that</p> <p>24 as a Stowers demand.</p> <p>25 And the way it has been explained to</p>

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF COOK)

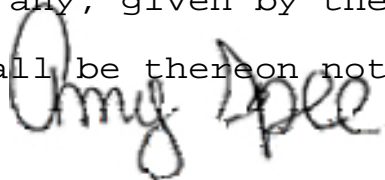
4 Amy M. Spee, being first duly sworn on
5 oath, says that she is a Certified Shorthand
6 Reporter, that she reported in shorthand the
7 testimony given at the taking of said deposition and
8 that the foregoing is a true and correct transcript
9 of her shorthand notes so taken as aforesaid and
10 contains all the testimony given by the deponent at
11 said deposition.

12 And further, that she is not connected by
13 blood or marriage with any of the parties to this
14 action, nor is she a relative or employee or attorney
15 or counsel of any of the parties, or financially
16 interested directly or indirectly in the matter in
17 controversy.

18 That the preceding deposition shall be
19 read by said deponent, and any and all corrections
20 which the deponent desires to make shall be duly made
21 by the deponent on the enclosed errata sheet(s),
22 indicating page and line to be corrected, and that
23 the explanation, if any, given by the deponent for
24 said corrections shall be thereon noted.

25 dated:

November 1, 2017



Certified Shorthand Reporter
License No. 084-004559

CHANGES AND SIGNATURE (Cont'd)

PAGE	LINE	CHANGE	REASON
40	7	"privileged"	not purposeful not correct
56	1	"effluve" is "outside"	not correct
160	15	"bought" not "brought"	not correct
163	13	"recall" not "recalling"	not correct
180	19	"excess" not "excessive"	not correct
222	20	"da. da. ..."	not testimony
266	20	" power proceeded" not "persuaded"	not correct
142	25	add " see on June 9" after "several weeks later"	clarify reference

I, _____, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

Under penalty of perjury that the foregoing is true and correct.

Executed on December 28, 2017.

THE STATE OF _____)

COUNTY OF _____)

Before me, _____, on this day personally appeared _____, known to me (or proved to me under oath or through _____ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, _____.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____